

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKCARLOS HERRERA, on behalf of himself and all
others similarly situated,Plaintiff,
-against-
ZELOUF INTERNATIONAL CORP.,
Defendant.USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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1:23-cv-6721 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

The Court is in receipt of the parties' joint request for judicial approval of their proposed consent decree [ECF No. 20, 20-1 ("Proposed Consent Decree")]. Specifically, the parties propose that "[t]he Court's jurisdiction over this matter shall continue for 36 months." Proposed Consent Decree at 10. However, as the Court states in its Individual Rules of Practice in Civil Cases, the Court typically will not retain jurisdiction to enforce settlement agreements.

The parties have not cited any reason for the Court to conclude that this case may only be dismissed, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, by order of the court "and upon such terms and conditions as the court deems proper." Fed. R. Civ. P. 41(a)(2); *Hester Indus., Inc. v. Tyson Foods, Inc.*, 160 F.3d 911, 916 (2d Cir. 1998) (explaining that Rule 41(a)(2) does not apply to circumstances where the plaintiff can secure consent to a stipulated dismissal). The parties are free to settle this case, pursuant to Rule 41(a)(1)(A)(ii), on any terms they wish, and they will be bound by the terms and conditions of their stipulation of voluntary dismissal. 9 Wright & Miller, Federal Practice & Procedure § 2363 (3d ed. 2008). Such a voluntary dismissal by stipulation does not require judicial approval. *Torres v. Walker*, 356 F.3d 238, 243 (2d Cir. 2004). However, if the Court enters the parties' Proposed Judgment and retains jurisdiction to

enforce the terms of their agreement to dispose of this case, that disposition will carry the Court's "judicial imprimatur." *Id.*

Accordingly, IT IS HEREBY ORDERED that the parties shall file a joint letter on the docket **on or before March 1, 2024** advising the Court whether they intend to settle this case pursuant to Rule 41(a)(1)(A)(ii) or whether Plaintiff wishes to continue prosecuting this action.

SO ORDERED.

Date: January 17, 2024
New York, NY


MARY KAY VYSKOCIL
United States District Judge